

## Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	77505597
<b>LAW OFFICE ASSIGNED</b>	LAW OFFICE 117
<b>MARK SECTION (no change)</b>	
<b>ARGUMENT(S)</b>	
<p style="text-align: center;"><b><u>Request for Reconsideration</u></b></p> <p>The examining attorney reviewed the applicant's response dated April 13, 2011 and, unfortunately, has continued and made final the refusal under Trademark Act Section 2(d). The applicant has carefully considered the content of the examining attorney's final refusal, but respectfully submits that the refusal should be withdrawn for the following reason.</p> <p>As was mentioned in the applicant's response of April 13<sup>th</sup>, The Coca Cola Company applied to register the mark HUMAN HORSEPOWER on March 16, 2010 and the Office approved the mark for publication, without any finding of a likelihood of confusion with U.S. Registration No. 3,690,631 for the mark HORSEPOWER ENERGY DRINKS. In response to a Notice of Opposition filed by the owner of the cited registration (Opposition No. 91199348), The Coca Cola Company filed an Answer to the Notice of Opposition and a Counterclaim to Cancel the cited registered mark on various grounds with the Trademark Trial and Appeal Board on May 18, 2011. If the TTAB cancels the cited registered mark, it will no longer be an obstacle under Trademark Act Section 2(d) and the cancellation of the cited registered mark will place the present application in condition for allowance. Accordingly, since the validity of the cited registered mark is now in question, the Applicant respectfully requests that further action on the proposed application be suspended pending the outcome of TTAB proceeding number 91199348. Action in this regard is respectfully requested.</p>	
<b>SIGNATURE SECTION</b>	
<b>RESPONSE SIGNATURE</b>	/cmbaker/
<b>SIGNATORY'S NAME</b>	Christine M. Baker
<b>SIGNATORY'S POSITION</b>	Attorney for Applicant
<b>DATE SIGNED</b>	11/06/2011
<b>AUTHORIZED SIGNATORY</b>	YES
<b>CONCURRENT APPEAL NOTICE FILED</b>	YES

**FILING INFORMATION SECTION**

<b>SUBMIT DATE</b>	Sun Nov 06 19:22:23 EST 2011
<b>TEAS STAMP</b>	USPTO/RFR-38.97.105.2-201 11106192223094623-7750559 7-4806baa961461eca6aaac95 555986bf375-N/A-N/A-20111 106190427596706

PTO Form (Rev 4/2000)

OMB No. 0651-.... (Exp. 08/31/2004)

**Request for Reconsideration after Final Action****To the Commissioner for Trademarks:**

Application serial no. **77505597** has been amended as follows:

**ARGUMENT(S)**

**In response to the substantive refusal(s), please note the following:**

**Request for Reconsideration**

The examining attorney reviewed the applicant's response dated April 13, 2011 and, unfortunately, has continued and made final the refusal under Trademark Act Section 2(d). The applicant has carefully considered the content of the examining attorney's final refusal, but respectfully submits that the refusal should be withdrawn for the following reason.

As was mentioned in the applicant's response of April 13<sup>th</sup>, The Coca Cola Company applied to register the mark HUMAN HORSEPOWER on March 16, 2010 and the Office approved the mark for publication, without any finding of a likelihood of confusion with U.S. Registration No. 3,690,631 for the mark HORSEPOWER ENERGY DRINKS. In response to a Notice of Opposition filed by the owner of the cited registration (Opposition No. 91199348), The Coca Cola Company filed an Answer to the Notice of Opposition and a Counterclaim to Cancel the cited registered mark on various grounds with the Trademark Trial and Appeal Board on May 18, 2011. If the TTAB cancels the cited registered mark, it will no longer be an obstacle under Trademark Act Section 2(d) and the cancellation of the cited registered mark will place the present application in condition for allowance. Accordingly, since the validity of the cited registered mark is now in question, the Applicant respectfully requests that further action on the proposed application be suspended pending the outcome of TTAB proceeding number 91199348. Action in this regard is respectfully requested.

**SIGNATURE(S)****Request for Reconsideration Signature**

Signature: /cmbaker/ Date: 11/06/2011

Signatory's Name: Christine M. Baker

Signatory's Position: Attorney for Applicant

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77505597

Internet Transmission Date: Sun Nov 06 19:22:23 EST 2011

TEAS Stamp: USPTO/RFR-38.97.105.2-201111061922230946

23-77505597-4806baa961461eca6aaac9555598

6bf375-N/A-N/A-20111106190427596706